

buoy, or rope remains subject to appropriate civil penalties.

(4) *Possession of spiny lobsters.* In the EEZ off Florida and the Gulf states, a whole or a part of a spiny lobster subject to these regulations may only be possessed during the commercial and recreational fishing season and the special recreational fishing season specified in § 640.20, unless accompanied by proof of lawful harvest in the waters of a foreign nation. Consistent with the provisions of paragraphs (b)(3)(i) and (ii) of this section, a spiny lobster in a trap in this area will not be deemed to be possessed provided such spiny lobster is returned immediately to the water unharmed when a trap is removed from the water between March 31 and April 15.

(c) *Primacy of seasonal restrictions in the EEZ off Florida.* The seasonal restrictions applicable in the EEZ off Florida apply to all spiny lobsters and traps in the EEZ off Florida, without regard to harvest or use elsewhere, unless accompanied by proof of lawful harvest elsewhere.

[60 FR 41831, Aug. 14, 1995, as amended at 69 FR 18803, Apr. 9, 2004; 76 FR 75491, Dec. 2, 2011]

§ 640.21 Harvest limitations.

(a) *Berried lobsters.* A berried (egg-bearing) spiny lobster in or from the EEZ must be returned immediately to the water unharmed. If found in a trap in the EEZ, a berried spiny lobster may not be retained in the trap. A berried spiny lobster in or from the EEZ may not be stripped of its eggs or otherwise molested. The possession of a spiny lobster, or part thereof, in or from the EEZ from which eggs, swimmerettes, or pleopods have been removed or stripped is prohibited.

(b) *Minimum size limits.* (1) Except as provided in paragraph (c) of this section—

(i) No person may possess a spiny lobster in or from the EEZ with a carapace length of 3.0 inches (7.62 cm) or less; and

(ii) A spiny lobster, harvested in the EEZ by means other than diving, with a carapace length of 3.0 inches (7.62 cm) or less must be returned immediately to the water unharmed.

(2) No person may harvest or attempt to harvest a spiny lobster by diving in the EEZ unless he or she possesses, while in the water, a measuring device capable of measuring the carapace length. A spiny lobster captured by a diver must be measured in the water using such measuring device and, if the spiny lobster has a carapace length of 3.0 inches (7.62 cm) or less, it must be released unharmed immediately without removal from the water.

(3) Aboard a vessel authorized under paragraph (d) of this section to possess a separated spiny lobster tail, no person may possess in or from the EEZ a separated spiny lobster tail with a tail length less than 5.5 inches (13.97 cm).

(c) *Undersized attractants.* A live spiny lobster under the minimum size limit specified in paragraph (b)(1) of this section that is harvested in the EEZ by a trap may be retained aboard the harvesting vessel for future use as an attractant in a trap provided it is held in a live well aboard the vessel. No more than fifty undersized spiny lobsters, and one per trap aboard the vessel, whichever is greater, may be retained aboard for use as attractants. The live well must provide a minimum of $\frac{3}{4}$ gallons (1.7 liters) of seawater per spiny lobster. An undersized spiny lobster so retained must be released to the water alive and unharmed immediately upon leaving the trap lines and prior to one hour after official sunset each day. No more than fifty undersized spiny lobsters and one per trap aboard the vessel, may be retained aboard for use as attractants.

(d) *Tail separation.* (1) The possession aboard a fishing vessel of a separated spiny lobster tail in or from the EEZ as defined in § 640.1(b), is authorized only when the possession is incidental to fishing exclusively in the EEZ on a trip of 48 hours or more and a valid Federal tail-separation permit, and either a valid Federal vessel permit for spiny lobster or a valid Florida Saltwater Products License with a valid Florida Restricted Species Endorsement and a valid Crawfish Endorsement, as specified in § 640.4(a)(2), has been issued to and are on board the vessel.

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(2) Spiny lobster must be landed either all whole or all tailed on a single fishing trip.

[57 FR 56520, Nov. 30, 1992, as amended at 59 FR 53119, Oct. 21, 1994; 76 FR 75491, Dec. 2, 2011]

§ 640.22 Gear and diving restrictions.

(a) *Prohibited gear and methods.* (1) A spiny lobster may not be taken in the EEZ with a spear, hook, or similar device, or gear containing such devices. In the EEZ, the possession of a speared, pierced, or punctured spiny lobster is *prima facie* evidence that prohibited gear was used to take such lobster. Hook, as used in this paragraph (a)(1), does not include a hook in a hook-and-line fishery for species other than spiny lobster; and possession of a spiny lobster that has been speared, pierced, or punctured by such hook is not considered evidence that prohibited gear was used to take the spiny lobster, provided no prohibited gear is on board the vessel.

(2) A spiny lobster may not be taken in a directed fishery by the use of a net or trawl. See § 640.23(d) for the bycatch limits applicable to a vessel that uses or has on board a net or trawl.

(3) Poisons and explosives may not be used to take a spiny lobster in the EEZ as defined in § 640.1(b). For the purposes of this paragraph (a)(3), chlorine, bleach, and similar substances, which are used to flush a spiny lobster out of rocks or coral, are poisons. A vessel in the spiny lobster fishery may not possess on board in the EEZ any dynamite or similar explosive substance.

(b) *Traps.* (1) In the EEZ, a spiny lobster trap may be no larger in dimension than 3 feet by 2 feet by 2 feet (91.4 cm by 61.0 cm by 61.0 cm), or the volume equivalent. A trap constructed of material other than wood must have a panel constructed of wood, cotton, or other material that will degrade at the same rate as a wooden trap. Such panel must be located in the upper half of the sides or on top of the trap, so that, when removed, there will be an opening in the trap no smaller than the diameter found at the throat or entrance of the trap.

(2) A spiny lobster trap in the EEZ may be pulled or tended during daylight hours only, that is, from 1 hour

before official sunrise to 1 hour after official sunset.

(3) A spiny lobster trap in the EEZ may be pulled or tended only by the owner's vessel, or by a vessel for which permission to pull or work traps belonging to another person has been granted—

(i) For traps in the EEZ off Florida, by the Division of Law Enforcement, Florida Fish and Wildlife Conservation Commission, in accordance with the procedures in Rule 68B-24.006(7), Florida Administrative Code, in effect as of July 1, 2008 (incorporated by reference, see § 640.29).

(ii) For traps in the EEZ, other than off Florida, by the Regional Administrator, as may be arranged upon written request.

(4) Fishing with spiny lobster trap gear is prohibited year-round in the following areas bounded by rhumb lines connecting, in order, the points listed.

(i) Lobster Trap Gear Closed Area 1.

Point	North Lat.	West Long.
A	24°31'15.002"	81°31'00.000"
B	24°31'15.002"	81°31'19.994"
C	24°31'29.999"	81°31'19.994"
D	24°31'29.999"	81°31'00.000"
A	24°31'15.002"	81°31'00.000"

(ii) Lobster Trap Gear Closed Area 2.

Point	North Lat.	West Long.
A	24°31'20.205"	81°30'17.213"
B	24°31'17.858"	81°30'27.700"
C	24°31'27.483"	81°30'30.204"
D	24°31'29.831"	81°30'19.483"
A	24°31'20.205"	81°30'17.213"

(iii) Lobster Trap Gear Closed Area 3.

Point	North Lat.	West Long.
A	24°31'42.665"	81°30'02.892"
B	24°31'45.013"	81°29'52.093"
C	24°31'34.996"	81°29'49.745"
D	24°31'32.335"	81°30'00.466"
A	24°31'42.665"	81°30'02.892"

(iv) Lobster Trap Gear Closed Area 4.

Point	North Lat.	West Long.
A	24°31'50.996"	81°28'39.999"
B	24°31'50.996"	81°29'03.002"
C	24°31'56.998"	81°29'03.002"
D	24°31'56.998"	81°28'39.999"
A	24°31'50.996"	81°28'39.999"

(v) Lobster Trap Gear Closed Area 5.